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Counsel for Intervenor Friends of Oceano Dunes, Inc. and Oxfoot Associates, LLC

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

CENTER FOR BIOLOGICAL DIVERSITY,

Plaintiff,

vs.

KEN SALAZAR, et al.,

Defendants,

and

SAND CITY, CALIFORNIA and SAND
CITY REDEVELOPMENT AGENCY,

Intervenor,

SECURITY NATIONAL GUARANTY, INC.,

Intervenor,

FRIENDS OF OCEANO DUNES, INC. and
OXFOOT ASSOCIATES, LLC,

Intervenor.

Case No. 3:08-cv-4594-PJH

**STIPULATION FOR STAY
PENDING SETTLEMENT**

WHEREAS,

1. This case involves a challenge to a decision by the Secretary of Interior to revise the designation of critical habitat for the Pacific Coast population of the western snowy plover under the Endangered Species Act, 16 U.S.C. § 1533 et seq. See 70 Fed. Reg. 56,970 (September 29, 2005).

2. Plaintiff Center for Biological Diversity and Federal Defendants^{1/} have reached a tentative settlement of the case. However, time is needed to prepare a settlement agreement and negotiate attorney's fees, and for Federal Defendants to obtain necessary approvals within the U.S. Department of Justice and U.S. Department of Interior. Defendant-Intervenors Sand City, Sand City Redevelopment Agency, Friends of Oceano Dunes, Inc., Oxfoot Associates, LLC, and Security National Guaranty, Inc. are participating in this process.

3. The parties respectfully request that the Court stay this litigation for 60 days from the date of this stipulation (until May 11, 2009), to allow time for the filing of a settlement agreement with the Court. There are several impending steps in this litigation that the parties seek to stay. By order dated January 5, 2009, the Court vacated the originally scheduled initial case management conference and rescheduled the conference for 2:30 p.m on April 2, 2009. Pursuant to Civil Local Rule 16-9, seven days prior to the conference, on March 26, 2009, a joint case management report is due. The parties respectfully submit that the Court should vacate the scheduled case management conference.^{2/}

4. In addition, the parties agree that in light of the tentative settlement, it is not necessary at this time for Federal Defendants to file the administrative record.^{3/}

5. In the event that any Intervenor opposes the settlement, the parties agree that within 30 days of the filing of the settlement agreement, the Intervenor may file an opposition with the Court and that responses will be due 20 days later.

^{1/} Pursuant to Fed. R. Civ. P. 25(d), Ken Salazar is substituted as a defendant for Dirk Kempthorne.

^{2/} Alternatively, the Court could set a conference for a date reasonably after the settlement agreement and any opposition and responses are filed. Based on the proposed schedule for filing any oppositions and responses set forth in paragraph 5 of this stipulation, July 16, 2009 would be an appropriate date.

^{3/} On December 31, 2008, prior to Intervenors being granted party status, Plaintiff and Federal Defendants submitted a joint case management report in advance of the originally scheduled initial case management conference. The report contains a proposed initial case schedule, including dates for filing the administrative record (March 30, 2009) and for briefing on motions to supplement the record. That proposed schedule has not been adopted by the Court.

1 A proposed order is attached.

2 IT IS SO STIPULATED

3
4 Respectfully submitted,

5 JOHN C. CRUDEN

6 Acting Assistant Attorney General
7 Environment and Natural Resources Division

8 JEAN E. WILLIAMS, Chief
9 LISA L. RUSSELL, Assistant Chief

10 Dated: March 10, 2009

By: /s/ Clifford E. Stevens, Jr.
11 CLIFFORD E. STEVENS, JR., Trial Attorney

12 Counsel for Defendants

13 Dated: March 10, 2009

By: /s/ John T. Buse

14 JOHN T. BUSE
15 Center for Biological Diversity

Counsel for Plaintiff

16 Dated: March 10, 2009

By: /s/ Thomas D. Roth

17 THOMAS D. ROTH
18 Law Offices of Thomas D. Roth

Counsel for Security National Guaranty, Inc.

19 Dated: March 10, 2009

By: /s/ Damien Schiff

20 DAMIEN SCHIFF
21 Pacific Legal Foundation

22 Counsel for Friends of Oceano Dunes, Inc. and
23 Oxfoot Associates, LLC

24 Dated: March 10, 2009

By: /s/ Ronald A. Zumbrun

25 RONALD A. ZUMBRUM
26 The Zumbrun Law Firm

27 Counsel for Sand City and Sand City
28 Redevelopment Agency

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CENTER FOR BIOLOGICAL DIVERSITY,

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Intervenor,

SECURITY NATIONAL GUARANTY, INC.,

Intervenor,

FRIENDS OF OCEANO DUNES, INC. and
OXFOOT ASSOCIATES, LLC,

Intervenor.

Case No. 3:08-cv-4594-PJH

**PROPOSED ORDER FOR STAY
PENDING SETTLEMENT**

For good cause shown and by stipulation of the parties, it is ordered that:

1. The above-captioned case is stayed until May 11, 2009, pending filing of a settlement agreement with the Court. Pursuant to the stay, the conference scheduled for April 2, 2009 at 2:30 p.m. in this case is vacated [rescheduled for _____].

2. Until otherwise ordered by the Court, Federal Defendants need not file the administrative record.

3. Any Intervenor that opposes the settlement may file an opposition within 30 days of the filing of the agreement, and responses to any oppositions will be due 20 days later.

IT IS SO ORDERED

Dated: _____

PHYLLIS J. HAMILTON.
UNITED STATES DISTRICT JUDGE